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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
OLSON, MARGARET LINNEA	

ART UNIT	PAPER NUMBER
3782	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/710,883	BOVE ET AL.	
	Examiner	Art Unit	
	Margaret L. Olson	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☒ Claim(s) *27-29* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 August 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 3, 6, 7, 20, and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Johansson (US 5,052,605). Johansson discloses a load carrier arrangement for transporting a bicycle with a frame assembly 1 adapted to be mounted to a carrying vehicle and having an elongate arm 4 configured to receive a bicycle cradle (figure 1). A bicycle cradle 32 is mounted on arm 4 and is operator configurable between a bicycle transporting configuration (figure 13) and a non-transporting configuration (figure 14). The cradle has a through-passage 43 through which the elongate arm is received and may be longitudinally positioned in the non-transporting configuration (column 4, lines 40-46). The cradle has an increased resistance to longitudinal reciprocation in the

transporting configuration and is effectively longitudinally fixed relative to the arm during transport of a bicycle.

With respect to claim 2, Johansson discloses a load carrier arrangement for transporting a bicycle with a frame assembly 1 adapted to be mounted to a carrying vehicle and having an elongate arm 4 configured to receive a bicycle cradle (figure 1). An anchor means 32 is mounted on arm 4 and is operator configurable between a bicycle transporting configuration (figure 13) and a non-transporting configuration (figure 14). The cradle has a through-passage 43 through which the elongate arm is received and may be longitudinally positioned in the non-transporting configuration (column 4, lines 40-46). The cradle has an increased resistance to longitudinal reciprocation in the transporting configuration and is effectively longitudinally fixed relative to the arm during transport of a bicycle.

With respect to claim 3, the anchor means is a bicycle cradle (figure 1).

With respect to claim 6, the cradle 32 has a through passage 43 within which said elongate arm is received. The cradle is operator reciprocal on the elongate arm in the non-transporting configuration (column 4, lines 40-46). The cradle has an increased resistance to longitudinal reciprocation in the transporting configuration and is effectively longitudinally fixed relative to the arm during transport of a bicycle.

With respect to claim 7/6 and 7/3 and 7/1, the cradle comprises a plurality of cradle pieces.

With respect to claim 20/6 and 20/3 and 20/1, the cradle comprises variably adjustable, flexible retaining strap 41 and a base 35 for keeping the bicycle frame tube in place (figure 14, figure 15; column 4, lines 4-8).

With respect to claim 22/20/6 and 22/20/3 and 22/20/1, the base further comprises fastening tabs between holes 53 and the retaining strap comprises fastening holes 53A/B/C (shown attached in figure 15).

With respect to claim 23/6 and 23/3 and 23/1, the cradle comprises a plurality of variably configurable cradle portions 41 and 50. Cradle portion 41 is a binding assembly that more forcefully abuts the elongate arm in the bicycle-transporting configuration (figure 15) than in the non-transporting configuration (figure 14) and is actuated by the flexible retaining strap 41 (column 4, lines 4-8) to releasably anchor a bicycle tube frame in place.

With respect to claim 24/6 and 24/3 and 24/1, the through passage 42 is variably constricting on the elongated arm between the transporting and non-transporting configurations.

With respect to claim 25/24/6 and 25/24/3 and 25/24/1, the variable constriction of the through-passage is actuated by the flexible retaining strap 41 configured to releasably anchor a bicycle frame tube in place (figure 14, figure 15; column 4, lines 4-8).

With respect to claim 26/25/24/6 and 26/25/24/3 and 26/25/24/1, the flexible retaining strap 41 acts as on a binding portion of the cradle via a lever portion 48 through which the binding force is communicated and that fixes the cradle to the elongate arm in the transporting configuration.

4. Claims 1-16, 18, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Colley (US 5,769,556). Colley discloses a load carrier arrangement for transporting a bicycle with a frame assembly adapted to be mounted to a carrying vehicle and having an elongate arm 11 configured to receive a bicycle cradle (column 3, lines 36-40). A bicycle cradle 15 is mounted on arm 11 and is operator configurable between a bicycle transporting configuration and a non-transporting configuration. The cradle has a through-passage near 21 through which the elongate arm is received and may be longitudinally positioned in the non-transporting configuration (figure 2). The cradle has an increased resistance to longitudinal reciprocation in the transporting configuration and is effectively longitudinally fixed relative to the arm during transport of a bicycle.

With respect to claim 2, Colley discloses a load carrier arrangement for transporting a bicycle with a frame assembly adapted to be mounted to a carrying vehicle and having an elongate arm 11 configured to receive a bicycle cradle (column 3, lines 36-40). An anchor means 15 is mounted on arm 11 and is operator configurable between a bicycle transporting configuration and a non-transporting configuration. The cradle has a through-passage near 21 through which the elongate arm is received and may be longitudinally positioned in the non-transporting configuration (figure 2). The cradle has an increased resistance to longitudinal reciprocation in the transporting configuration and is effectively longitudinally fixed relative to the arm during transport of a bicycle (column 2, lines 50-60).

With respect to claim 3, the anchor means is a bicycle cradle.

With respect to claim 4, use of the load carrier disclosed by Colley includes utilizing a load carrier arrangement having a frame assembly mounted to vehicle and including an elongate arm 11 configured to receive a bicycle cradle 15 that is operable configurable between a transporting and non-transporting configuration. When the bicycle cradle is not in use it is in the non-transporting configuration, which relieves any strain on the cradle and limits strain-induced cold flow creep in the device.

With respect to claim 5, limiting strain induced cold flow creep helps preserve a designed tightness-of-fit of said cradle 11 upon said arm 15.

With respect to claim 6, the cradle has a through-passage near 21 through which the elongate arm is received and may be longitudinally positioned in the non-transporting configuration (figure 2). The cradle has an increased resistance to longitudinal reciprocation in the transporting configuration and is effectively longitudinally fixed relative to the arm during transport of a bicycle (column 2, lines 50-60).

With respect to claim 7/6 and 7/3 and 7/1, the cradle comprises a plurality of cradle pieces 19 and 21.

With respect to claim 8/7/6 and 8/7/3 and 8/7/1, the through-passage near 21 is constituted by a series of apertures near 27 and 29 each located on one of the plurality of cradles pieces.

With respect to claim 9/8/7/6 and 9/8/7/3 and 9/8/7/1, the series of apertures constituting the through-passage near 21 are sufficiently aligned in the

non-transporting configuration to achieve the variable longitudinal positioning of the cradle on the elongated arm.

With respect to claim 10/8/7/6 and 10/8/7/3 and 10/8/7/1, wherein the series of apertures is sufficiently mis-aligned in the transporting configuration to establish a binding effect between the cradle and the elongated arm to fix it longitudinally on the arm.

With respect to claim 11//8/7/6 and 11/8/7/3 and 11/8/7/1, the transition of the cradle form the non-transporting to the transporting configuration establishes a binding effect between the cradle and the elongated arm sufficient to establish an anchor for a secured portion of a bicycle in the cradle.

With respect to claim 12/6 and 12/3 and 12/1, the cradle comprises a plurality of variably configurable cradle portions 19 and 21. Cradle portion 19 is a binding assembly which more forcefully abuts the elongate arm in the transporting configuration than the non-transporting configuration.

With respect to claim 13/12/6 and 13/12/3 and 13/12/1, the binding assembly is coupled to a lever portion screw thread 25 through which a binding force is communicated that fixes the cradle to the elongate arm in the transporting configuration.

With respect to claim 14//12/6 and 14/12/3 and 14/12/1, the binding assembly comprises a lever (screw thread 25) through which a binding force is communicated that fixes the cradle to the elongate arm in the transporting configuration.

With respect to claim 15/6 and 15/3 and 15/1, the through-passage near 21 is constituted by a series of apertures near 27 and 29 each located on one of the plurality of cradles pieces. These apertures are configured in a non-transporting application to allow the elongated arm to reciprocate therein and are reoriented in the transporting configuration to bind on the elongate arm and resist reciprocation of the elongate arm.

With respect to claim 16/6 and 16/3 and 16/1, the resilient protective materials 27 and 29 are of a different durometer than the cradle pieces 21 and 19 (column 2, lines 35-49).

With respect to claim 18/6 and 18/3 and 18/1, a portion of the cradle 19 and 21 is constructed from a material susceptible to cold-flow creep (column 3, lines 13-17). These portions may experience creep effects when tightened on the arm in the transporting configuration. Such creep effects are reduced when the cradle is loosened on the arm in the non-transporting bicycle configuration, in comparison to the creep of the transporting position.

With respect to claim 24/6 and 24/3 and 24/1, the through passage is variably constricting on the arm between the bicycle transporting configuration and the non-transporting configuration.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 17/16/6 and 17/16/3 and 17/16/1 and 19/18/6 and 19/18/3 and 19/18/1 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colley (US 5,769,556) in view of Newbold et al. (US 4,830,250). Colley discloses the structure of claim 16/6 and 16/3 and 16/1, but does not disclose that the cradle is constructed form plastic. Newbold et al. teach a cradle for a bicycle 86/86 made of plastic (figure 2, column 4, lines 57-60; column 5, lines 54-56) which is susceptible to cold-flow creep. It would have been obvious to one of ordinary skill in the art at the time of invention to use plastic for the cradle construction of Colley, since it is an inexpensive and durable material.

With respect to claim 19/18/6 and 19/18/3 and 19/18/1, Colley discloses the structure of claim 18/6 and 18/3 and 18/1, but does not disclose that the cradle is constructed from plastic. Newbold et al. teach a cradle for a bicycle 86/86 made of plastic (figure 2, column 4, lines 57-60; column 5, lines 54-56) which is susceptible to cold-flow creep. It would have been obvious to one of ordinary skill in the art at the time of invention to use plastic for the cradle construction of Colley, since it is an inexpensive and durable material.

7. Claim 22/20/6 and 22/20/3 and 22/20/1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johansson (US 5,052,605) in view of Colley (US 5,769,556). Johansson teaches the structure of claim 20/6 and 20/3 and 20/1, but does not disclose that the base has a ribbed bicycle-engaging surface. Colley teaches a base 21 for engaging a bicycle frame tube with a ribbed bicycle-

engaging surface 29 (figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to include a ribbed bicycle-engaging surface on the base 35 of Johansson in order to better secure the frame tube against unwanted movement on the base (Colley, column 2, lines 42-49).

Allowable Subject Matter

8. Claims 27-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kirschner (US 4,396,138), Blackburn et al (US 5,056,700), Graber (US 4,394,948), and Mottez (FR 2,668,435) all disclose similar inventions.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

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